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COMMITTEE AGAINST TORTURE

Fifteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 227th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 November 1995, at 10.30 a.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.227/Add.1.

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The meeting was called to order at 10.40 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the fifteenth session of the Committee and welcomed the members.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda)

2. The agenda (CAT/C/31) was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

Exhibition on the practice of torture

3. Mr. BURNS reported to the Committee that he had recently met a Quebec artist, Mr. Fiore, who for several years had been preparing an artistic representation of the horrors of torture. He had been asked by the artist, who had also been in touch with the Chairman and Mrs. Klein of the Centre for Human Rights, to seek the Committee's backing for an exhibition of his work, to be held for one session just outside the conference room. If the Committee decided to give the artist its moral support, the Secretariat, as he understood it, would approve the exhibition. It would then be up to the artist to find the financial resources needed for carrying out the project. Copies of the artist's portfolio were available to give the members of the Committee an idea of his work, which would not fail to have a powerful impact on visitors to the Palais des Nations. He asked the Committee to support the artist's universal statement against torture, which was not directed against any particular country.

4. The CHAIRMAN, joined by Mr. SORENSEN, Mr. SLIM and Mr. El IBRASHI, endorsed Mr. Burns' proposal, because it would create awareness of the terrible nature of torture and also serve to inform the public of the Committee's work.

5. Mr. BURNS said he took it that the Committee was in favour of holding such an exhibition.

Participation in the work of the Committee

6. The CHAIRMAN announced that Mr. Yakovlev might not be able to attend the current session.

7. Mr. EL IBRASHI sought clarification as to why, for a second consecutive time, Mr. Lorenzo was not attending a session of the Committee.

8. Mr. BRUNI (Secretary of the Committee) said that in a letter dated 23 May 1995, Mr. Jean-Claude Aimé Chief of Staff of the Executive Office of the Secretary-General, responding on behalf of the Secretary-General to Mr. Dipanda Mouelle's letter appealing against the decision taken not to allow Mr. Lorenzo to serve on the Committee, had written that, following a review by the Office of Legal Affairs, the validity of the ruling made not to authorize Mr. Lorenzo to serve on the Committee for as long as he remained a staff member of the United Nations had been confirmed.

9. Mr. Lorenzo, who had been contacted during preparations for the current session, had stated that he was still a member of the United Nations human rights verification mission in Guatemala (MINUGUA). Given the incompatibility between Mr. Lorenzo's existing status as a United Nations staff member and his membership of the Committee, he could not attend the current session.

10. Mr. EL IBRASHI drew attention to rule 13 (1) of the Committee's rules of procedure, which made provision for such cases: the Secretary-General must immediately declare the seat of the member concerned to be vacant and must request the State party to appoint another expert to replace him. He inquired whether the Secretary-General had taken those steps.

11. Mr. SORENSEN said that, although it was the duty of the State to appoint a new member, Uruguay had probably refrained from doing so because Mr. Lorenzo's term expired at the end of the current year.

12. Mr. BURNS said that under rule 13, the onus was clearly on the Secretary-General to initiate the procedure by declaring the seat vacant; only after that must a State appoint another member. The Secretariat having decided that an incompatibility existed, should also have realized that there was a need to declare a vacancy. The Secretariat's decision had been made six months previously, and it was therefore too late to do anything about Mr. Lorenzo's case, but the Committee must ensure that there was no recurrence of such situations.

13. Mr. EL IBRASHI, agreeing with the previous speaker, said that a reference to that effect should be included in the Committee's report.

14. Ms. ILIOPOULOS-STRANGAS, concurring with the previous speakers, proposed, in order to ensure that such a situation did not recur, that the Committee should not only refer to the matter in its own report but also send a formal communication to the Secretary-General expressing surprise that the necessary procedure had not been followed in Mr. Lorenzo's case in particular, that the State party had not been requested to appoint another expert to replace him.

15. Mr. SLIM said that it was important to determine whether Mr. Lorenzo's inability to attend the Committee's sessions was temporary or permanent, the question of permanent absence being covered by article 17 of the Convention and rule 13 of the Committee's rules of procedure. If the case was one of permanent absence, the Secretary-General should have declared the seat vacant; had he done so, the State party might already have appointed a successor. As Mr. Lorenzo's term of office was drawing to an end, however, the Committee need take no further action.

16. Mr. BRUNI (Secretary of the Committee) said the Committee should bear in mind that, since Mr. Lorenzo's temporary contract in Guatemala with the United Nations had been due to expire only on 30 September 1995, his seat on the Committee could not have been declared vacant as he might have participated in the current session. Furthermore, Mr. Lorenzo's Government had been informed through its Geneva Mission of the Committee's concern over the question.

17. Mr. EL IBRASHI supported the proposal made by Ms. Iliopoulos-Strangas. Any renewal of Mr. Lorenzo's contract could only have been done by the Secretary-General who should at the time have applied rule 13. The situation could not be justified.

18. Ms. ILIOPOULOS-STRANGAS said that the rules of procedure and the Convention should be interpreted in such a way as to ensure that the Committee had all its members present at all times. Members could not pursue a political career and remain on the Committee. The matter might usefully be raised at the meeting of States parties, in view of their responsibility for members' participation in the Committee's work, and the State in question asked why it had not appointed a replacement.

19. Mr. SORENSEN said that in the light of the Secretariat's explanation, it would be unwise for the Committee to write to the Secretary-General at the present time.

20. The CHAIRMAN said that the Secretary-General might perhaps have contacted the State party on the question. Now that Mr. Lorenzo's term of office on the Committee was drawing to a close, his candidacy would have to be resubmitted if he was to remain a member of the Committee. The Committee should leave matters as they were for the time being.

Draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

21. Mr. SORENSEN said that the open-ended working group on the draft optional protocol had recently completed its first reading of the text, and that he had attended its second and fourth sessions. The protocol, originally proposed in 1981 by Costa Rica and taken up by others some years later, was intended to enable inspections to be made in different countries by a sub-committee consisting of representatives of the United Nations Committee against Torture (CAT) and of the European Committee for the Prevention of Torture (CPT). Both Committees had submitted papers and had sent representatives to the sessions. He personally had spoken on behalf of both Committees, describing their experience and the differences between their work.

22. While the draft text contained a large number of square brackets, the first reading had clarified many problems and identified possible solutions. The second reading would be the decisive one. Although most of the decisions to be taken would be political, the expert input would be even more important than at the first reading, as only the experts could explain the effect which the various forms of wording would have. The experts' input to the second reading would in fact be essential if an effective sub-committee was to be established, capable of attaining its goals.

23. Among the more important issues still to be resolved was whether or not under article 1, a State party "shall permit" visits in accordance with the protocol or whether such visits would depend on the invitation of the State party concerned. He believed that, if the latter wording were adopted, the protocol would be worthless.

24. With regard to the establishment of a sub-committee under CAT, while it had been decided that no two members should be nationals of the same State, the size of the sub-committee was still in question.

25. Particularly important, however, was the subparagraph in article 4 stating that the members of the sub-committee should be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular in criminal law, prison or police administration or in the various medical fields relevant to the treatment of persons deprived of their liberty or in the field of human rights. A subsequent article drew attention to the need to take geographical and gender distribution into account.

26. The election process still had to be settled, although it had been decided that each State party should nominate candidates and that their election would be by secret ballot and require an absolute majority of votes from States present and voting. It had been suggested that, on the basis of the nominations received, the Committee against Torture should propose a list of recommended candidates, having due regard to article 4 of the Protocol, in order to ensure that the sub-committee had a wide range of competence available to it.

27. The question as to whether an individual should be eligible for re-election once or twice was still open, members of the CPT being eligible for re-election only once. However, in view of the time needed to develop active expertise as a member, the CAT's representatives had suggested that members should be able to be re-elected twice.

28. One of the crucial issues to be resolved at the second reading would be the way in which missions were to be undertaken and performed, the possibilities ranging from the freedom to undertake whatever missions the sub-committee might deem appropriate, on the one hand, to having to obtain the agreement of the State party concerned, on the other. With regard to the composition of missions, it had been agreed that each should consist of two members of the sub-committee, assisted by experts, although the choice and number of the latter remained undecided. China had been opposed to the inclusion of experts, while another group had been in favour of allowing the committees to decide on the type of expertise needed for each visit.

29. On the relationship between CAT and the sub-committee, it had been decided that the submission of reports and recommendations by the sub-committee to CAT should be optional rather than compulsory, although the sub-committee would have a duty to submit an annual report to CAT on the countries and places within countries that had been visited and including information on the composition of the missions and confidential matters, as well as general recommendations on ways of improving the protection of persons deprived of their liberty.

30. It had been suggested that a special voluntary fund should be established for the purpose of implementing recommendations.

31. The working group's report was still only in draft form, but was expected to be finalized shortly and published in approximately two months' time, just prior to the next session of the Commission on Human Rights. The Secretariat might be asked to forward copies to individual members of the Committee. It would doubtless take four to five years for the second reading to be completed, after which the text would be referred to the General Assembly for approval. It would probably enter into force around the year 2005.

32. Mr. BRUNI (Secretary of the Committee) said that the working group's report would be published as a document of the Commission on Human Rights and that it would automatically be sent to Committee members, certainly before the following session.

Consideration of the second periodic report of the United Kingdom (CAT/C/25/Add.6)

33. Mr. BURNS remarked that, owing to the absence of Mr. Yakovlev, it would be necessary to appoint an alternate rapporteur for the United Kingdom report.

34. The CHAIRMAN announced that Mr. El Ibrashi would act as alternate rapporteur for the United Kingdom report.

The public part of the meeting rose at 11.55 a.m.